

108TH CONGRESS
1ST SESSION

H. R. 249

To amend title II of the Social Security Act to provide an exception to the nine-month duration of marriage requirement for widows and widowers in cases in which the marriage was postponed by legal impediments to the marriage caused by State restrictions on divorce from a prior spouse institutionalized due to mental incompetence or similar incapacity.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mr. ALLEN introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title II of the Social Security Act to provide an exception to the nine-month duration of marriage requirement for widows and widowers in cases in which the marriage was postponed by legal impediments to the marriage caused by State restrictions on divorce from a prior spouse institutionalized due to mental incompetence or similar incapacity.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. EXCEPTION TO NINE-MONTH DURATION OF**
2 **MARRIAGE REQUIREMENT FOR WIDOWS AND**
3 **WIDOWERS.**

4 (a) WIDOWS.—Section 216(c)(5) of the Social Secu-
5 rity Act (42 U.S.C. 416(c)(5)) is amended by adding at
6 the end the following: “for a period of shorter duration
7 immediately preceding such day in any case in which (A)
8 the individual had been married prior to the individual’s
9 marriage to the surviving wife, (B) the prior wife was in-
10 stitutionalized during the individual’s marriage to the
11 prior wife due to mental incompetence or similar inca-
12 pacity, (C) for the period beginning nine months imme-
13 diately prior to the individual’s marriage to the surviving
14 wife and ending with the death of the prior wife, the com-
15 mencement of the individual’s subsequent marriage to the
16 surviving wife was postponed because the laws of the State
17 in which the individual was domiciled at the time of his
18 marriage to the prior wife did not provide grounds for di-
19 vorce based on a spouse’s institutionalization due to such
20 mental incompetence or similar incapacity and therefore
21 impeded any subsequent marriage, and (D) the marriage
22 between the individual and his surviving wife occurred
23 within 60 days after the removal of the impediment cre-
24 ated by the individual’s marriage to the prior wife, or”.

25 (b) WIDOWERS.—Section 216(g)(5) of such Act (42
26 U.S.C. 416(g)(5)) is amended by adding at the end the

1 following: “for a period of shorter duration immediately
2 preceding such day in any case in which (A) the individual
3 had been married prior to the individual’s marriage to the
4 surviving husband, (B) the prior husband was institu-
5 tionalized during the individual’s marriage to the prior
6 husband due to mental incompetence or similar incapacity,
7 (C) for the period beginning nine months immediately
8 prior to the individual’s marriage to the surviving husband
9 and ending with the death of the prior husband, the com-
10 mencement of the individual’s subsequent marriage to the
11 surviving husband was postponed because the laws of the
12 State in which the individual was domiciled at the time
13 of her marriage to the prior husband did not provide
14 grounds for divorce based on a spouse’s institutionaliza-
15 tion due to such mental incompetence or similar incapacity
16 and therefore impeded any subsequent marriage, and (D)
17 the marriage between the individual and her surviving
18 husband occurred within 60 days after the removal of the
19 impediment created by the individual’s marriage to the
20 prior husband, or”.

21 **SEC. 2. EFFECTIVE DATE.**

22 The amendments made by this Act shall be effective
23 with respect to applications for benefits under title II of

1 the Social Security Act that are filed on or after March
2 1, 1991.

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